

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 4: Appeals from Actions of the Franchise Tax Board

ARTICLE 1: APPLICATION OF CHAPTER 4, DEFINITIONS, AND JURISDICTION

5412. JURISDICTION.

(a) Appeals from the Franchise Tax Board. In General, the Board has jurisdiction to hear and decide a timely filed appeal under any of the following circumstances:

(1) The Franchise Tax Board mails a *Notice of Action* on a proposed deficiency assessment of additional tax, which may also include penalties, fees and interest.

(2) The Franchise Tax Board mails a *Notice of Action* on a proposed carryover adjustment.

(3) The Franchise Tax Board mails a *Notice of Action on Cancellation, Credit, or Refund*, or any other notice, which denies any portion of a perfected claim for a refund of tax, penalties, fees, or interest.

(4) The Franchise Tax Board fails to act on a claim for a refund of tax, penalties, fees, or interest, within six months after the claim is perfected with the Franchise Tax Board.

(5) The Franchise Tax Board mails a *Notice of Determination Not to Abate Interest*, or any other notice, that denies an abatement, in whole or in part, of paid or unpaid interest, under Revenue and Taxation Code section 19104.

(6) The Franchise Tax Board fails to act on a request for abatement of interest within six months after the request is filed with the Franchise Tax Board under Revenue and Taxation Code section 19104. This paragraph does not apply to requests for interest abatement made in connection with a protest or an appeal from a *Notice of Action* on a protest.

(7) The Franchise Tax Board mails a notice that disallows interest on a refund.

(8) The Franchise Tax Board mails any notice that grants or denies, in whole or in part, innocent spouse relief under Revenue and Taxation Code section 18533, subdivision (b) or (c), or section 19006, subdivision (c).

(9) The Franchise Tax Board mails a notice of determination, or fails to act within 90 days, on a petition for review of the Franchise Tax Board's finding of jeopardy.

(10) The Franchise Tax Board mails any notice that denies, in whole or in part, a claim for assistance under the Senior Citizens Homeowners and Renters Property Tax Assistance Law.

(b) Issues that will not be considered. The Board's jurisdiction is limited to determining the correct amount owed by, or due to, the appellant for the year or years at issue in the appeal. The Board has determined that it does not have jurisdiction to consider the following issues:

(1) Whether a California statute or regulation is invalid or unenforceable under the Federal or California Constitutions, unless a federal or California appellate court has already made such a determination.

(2) Whether a provision of the California Constitution is invalid or unenforceable under the Federal Constitution, unless a federal or California appellate court has already made such a determination.

(3) Whether a liability has been or should have been discharged in bankruptcy.

(4) Whether the Franchise Tax Board violated the Information Practices Act (Civil Code sections 1798 et seq.), the Public Records Act (Government Code sections 6250 et seq.), or any similar provision of the law.

(5) Whether the appellant is entitled to a remedy for the Franchise Tax Board's actual or alleged violation of any substantive or procedural right, unless the violation affects the adequacy of a notice, the validity of an action from which a timely appeal was made, or the amount at issue in the appeal.

(c) This section contains general rules governing the Board's jurisdiction. Changes in the law may expand or limit the Board's jurisdiction.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code section 19570; Article III, section 3.5 of the California Constitution.

Reference: Revenue and Taxation Code sections 18533, 19006, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19322.1, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.